

Appln No. 09/945,003
Amdt date July 1, 2004
Reply to Office action of April 1, 2004

REMARKS/ARGUMENTS

Claims 1-17 and 19-28 are pending in the application. The Examiner has indicated that claims 3-4, 21-22, and 24-28 are withdrawn from consideration as directed to non-elected species. Applicant reserves the right to have those claims considered in the event a generic claim is held to be allowable.

Claims 1, 6-7, 11, 14, 17, 19, and 23 stand rejected under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite. In addition, claims 1, 2, 5-17, 19, and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schnitzer et al. (U.S. 5,692,497). Applicant respectfully traverses the rejections and requests reconsideration.

The Examiner states that claim 1 is not clear because the biological property recited in the preamble ("a method for monitoring a biological property") is not shown to be related to the "biological input" recited in the claim. Applicant respectfully disagrees. The first step recited in claim 1 is "collecting a biological input at a user terminal". There are two broad categories of biological inputs described in the application, namely, biological specimens and physiological attributes, i.e., signals, images, or responses. The correlation between biological properties and the specimens and attributes that give rise to, or are indicative of, such properties is spelled out on page 1 of the application: "Biological properties includes physical, chemical and biological characteristics of specimens collected from an organism . . . , as well as physiological attributes (i.e., performance or response) of the organism or its systems . . .".

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Plainly, the biological input referred to in independent claims 1 and 19 inherently correlates to a biological property, and the same would readily be understood by a person having ordinary skill in the art upon reading the claim in light of the specification. Furthermore, there is no rule that says the elements of the body of a claim must correlate to the preamble, and it has not been established that the preamble of the present claims does or does not limit the claims. Indeed, Applicant could just as easily recite "a method comprising . . ." in each of claims 1 and 19.

The Examiner also questions the meaning of the term "collecting a biological input" in claim 1, noting that "biological input" is further characterized as "a physiological signal, image, or response" in claim 6, with additional characterization of "physiological signal" in claim 7 as an acoustic signal, photographic image, . . . pressure, exhalation, or an inhalation. The Examiner questions "what particularly is the physiological signal for exhalation or inhalation -- its volume, its rate, or its content for specific components?"

Applicant does not discern any unclarity in the claim language that is used. The terminology is plainly provided in the application, beginning at page 1. Biological inputs include specimens, such as blood, saliva, and other samples of matter, as well as non-material inputs, such as physiological signals, images or responses, including acoustic signals (i.e., sound waves), photographic images, light reflections, pressure waves, etc. Specific examples illustrating the relationship between

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biological inputs and biological properties are provided throughout the application. See, e.g., pages 13-35.

As to the Examiner's contention that "it is absolutely not clear, how inhalation can be a biological input", Applicant respectfully points out that, just as a person can exhale into a pulmonary function port, so, too, can a person inhale from a pulmonary function port, and the drop in pressure, resistance, or other response to the inhalation can be measured. There is nothing about the language of claim 6 or 7, or any other claim, that renders them unclear and indefinite.

With respect to claim 11, the Examiner questions how a user interface can comprise "just a keypad, or a mouse, or a speaker, etc." The claim, however, does not limit the interface to a single such device. To the contrary, the claim uses the transition phrase "comprises one or more of" which is open-ended. The word "comprising", of course, is generally thought of as synonymous with "including". Plainly, a user interface can include a keypad, a mouse, etc. There is nothing unclear about this claim.

The Examiner's remarks with respect to claim 17 appear to be moot in view of the arguments presented above with respect to the preamble and the plainly evident relationship between biological inputs and biological properties.

Consider, now, the prior art. Schnitzer et al. disclose a microprocessor-controlled ventilator system and method. There is nothing in the reference remotely similar to the present invention, which provides a *delocalized* method for monitoring a biological property in an individual or group of individuals.

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In order to hasten prosecution of this application, claims 1 and 19 have been amended to recite that the user terminal and controller are located at geographically distinct locations. Support for this amendment is found at page 7, lines 14-15. The Schnitzer et al. reference discloses a conventional ventilator in which respiratory function is processed at the same location at which the patient is being monitored. In contrast, Applicant has invented a delocalized approach for monitoring an individual's, or group of individuals', biological properties. In one embodiment, this provides the advantage of having the expensive data processing equipment (e.g., a controller) located off-site from the less expensive user input port(s).

Claim 1 is clearly patentable over the Schnitzer et al. reference. Claim 19 is as well, as it recites a plurality of user terminals -- a feature plainly not recited in the cited reference. Applicant respectfully requests reconsideration of all claims pending in the application.

Respectfully submitted,

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